

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
                                  )  
                                  )  
Plaintiff,                   )  
                                  )  
                                  )  
v.                             )   Criminal Action No.  
                                  )   03-00171-01-CR-W-ODS  
HESSAM S. GHANE,            )  
                                  )  
                                  )  
Defendant.                   )

**MEMORANDUM OF MATTERS DISCUSSED AND  
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on July 12, 2006. Defendant Hessam Ghane appeared in person and with retained counsel Jim Wyrsh and Justin Johnston. The United States of America appeared by Assistant United States Attorney Mike Green.

***I. BACKGROUND***

On May 15, 2003, an indictment was returned charging Defendant with one count of knowingly stockpiling, retaining, and possessing potassium cyanide, which was not intended to be used for a peaceful purpose, in violation of 18 U.S.C. § 229(a)(1).

The following matters were discussed and action taken during the pretrial conference:

***II. TRIAL COUNSEL***

Mr. Green announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent David Cudmore, FBI.

Mr. Johnston announced that he and Mr. Wyrsh will be the trial counsel for Defendant Ghane; paralegal Michelle Dorrance will assist.

***III. OUTSTANDING MOTIONS***

Defendant's Motion to Dismiss Case because 18 U.S.C. §§ 229 and 229A are Unconstitutionally Vague and Overbroad (Doc. No. 83) is still pending. A Report & Recommendation was filed on October 11, 2005 (Doc. No. 106).

***IV. TRIAL WITNESSES***

Mr. Green announced that the government intends to call fifteen to sixteen witnesses without stipulations or ten witnesses with stipulations during the trial.

Mr. Johnston announced that Defendant Ghane intends to call seven to ten witnesses during the trial. Defendant may testify.

***V. TRIAL EXHIBITS***

Mr. Green announced that the government will offer approximately thirty exhibits in evidence during the trial.

Mr. Johnston announced that Defendant Ghane will offer approximately thirty exhibits in evidence during the trial.

**VI. DEFENSES**

Mr. Johnston announced that Defendant Ghane will rely on the defense of general denial.

**VII. POSSIBLE DISPOSITION**

Mr. Johnston stated this case is definitely for trial.

**VIII. STIPULATIONS**

Stipulations are likely as to chemist's reports, business records, Defendant's apartment records, Defendant's employment history, and records concerning the dates specific inmates were housed at CCA.

**IX. TRIAL TIME**

Counsel were in agreement that this case will take four days to try.

**X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS**

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed June 2, 2003, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by **Wednesday, July 12, 2006**;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, **Wednesday, July 19, 2006**;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, **Wednesday, July 19, 2006**. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and ½ inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

## ***XI. UNUSUAL QUESTIONS OF LAW***

Motions in limine on the following issues will be filed on (1) whether this is a specific intent crime and (2) the admissibility of expert testimony as to specific intent. Defendant was ordered to file such motions by Tuesday, July 18, 2006; the government will respond by Friday, July 21, 2006.

## ***XII. TRIAL SETTING***

All counsel and the defendant were informed that the trial in this case will commence on July 31, 2006. A Farsi (Iranian-language) interpreter may be required; defense counsel will let the court know by Friday, July 14, 2006. A hearing device may also be required.

/s/ Robert E. Larsen  
ROBERT E. LARSEN  
United States Magistrate Judge

Kansas City, Missouri  
July 12, 2006

cc: The Honorable Ortrie D. Smith  
Mr. Mike Green  
Mr. Jim Wyrsh  
Mr. Justin Johnston  
Mr. Jeff Burkholder